IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT APPLICATION OF: CONFIRMATION NO. 2757

Kivin Varghese

APPLICATION NO.: 10/605,758 EXAMINER: NGUYEN, V.

FILING DATE: October 23, 2003 ART UNIT: 2151

TITLE: AN INTERNET SYSTEM FOR THE UPLOADING, VIEWING AND RATING OF VIDEOS

DECLARATION UNDER 37 C.F.R. § 1.132 OF KIVIN VARGHESE

I, KIVIN VARGHESE, declare as follows:

1. I am the inventor of the above-identified patent application.

2. I have an undergraduate degree in Psychology from the University of Connecticut, a Master's Degree in Business Administration from New York University, and over 15 years of experience in the fields of advertising and marketing.

3. Prior to October 23, 2003, I invented the subject matter disclosed and claimed in the above-identified patent application. At the time, I saw that sharing video over the Internet had tremendous potential, but I was concerned about two things – the ability to share video in a way that would be profitable and/or sustainable for the company offering the service, and the need to give something back to the content creators.

4. At the time, the video sharing sites that so define our Internet experience today, like Google Video and YouTube, had not yet been invented. The idea of user-generated content was in its infancy, and there was no ready mechanism for paying users for that content. The most prevalent way of making money on the Internet was by charging for so-called "banner" advertisements on web pages, a method of dubious effectiveness that often does nothing more than annoy the users. No one had a good business plan for making money from sharing content on the Internet.

5. I envisioned a system in which a user could upload a video clip, state a desired price-per-view for the clip, and be paid that price. Imagine, for example, if a user

in Indonesia were to create a very popular video clip and designate a price-per-view to him of ten cents. Imagine that the service charged twenty cents per view of that video clip. If one million people were to view that video clip, it would generate $200,000 in revenue, of which $100,000 (the requested ten cents per view) could be given to the user who created the clip. User ratings of clips could guide other users to the most popular clips. With a system like this, it would take only very small increments of money to add up to large revenues.

6. I have read and I understand the final Office Action dated September 13, 2007, as well as the references cited in that Office Action. I understand that the patent examiner has rejected the claims of my patent application in part based on U.S. Patent No. 6,564,380 to Murphy. Based on my reading of it, the Murphy patent discloses a system for managing live video feeds and for transmitting those feeds over the Internet. I view that as completely different from my invention, which involves a system in which individual users can share video clips – and be paid for those clips – over the Internet.

7. One major difference is that the Murphy patent uses the Internet to push information from a small number of content sources to a large number of users. It does not describe allowing users to interact or form communities around the provided content. That is a fundamental difference, in that the true interactive, multi-user potential of the Internet is neither realized nor harnessed in the Murphy patent.

8. That major difference is exemplified in several particular ways: the Murphy patent does not disclose allowing users to designate prices for their video clips, it does not describe explicitly how the users could be compensated for their work, and it does not describe allowing users to rate video clips and determine which are most popular. The patent examiner believes that it would have been obvious to allow users to designate prices. I disagree. The Murphy patent's failure to describe how content creators might be compensated for their work was typical for the industry and the time period, and would not have implied or suggested anything to someone of skill in the field. Simply put, in 2003, no one had a viable business plan for obtaining video clips from users, paying the users for their contributions, and making money from such a system.

9. The patent examiner also cites another patent, U.S. Patent No. 7,031,931 to Meyers in an attempt to claim that it would have been obvious to have users rate video clips. As I explained above, Murphy does not recognize the multi-user potential of the Internet, and neither does Meyers. I do not believe that it would have been obvious to combine the two patents, and even if one were to do so, the result would still be very different from my invention.

10. In the years since 2003, the wild commercial and popular success of YouTube and other video sharing sites demonstrates how different and non-obvious those types of sites are, as compared with the type of system that the Murphy patent discloses. YouTube and other video and file sharing sites allow millions of users to interact and share video; they do not merely "push" video to consumers, as the Murphy system is designed to do.

11. However, despite the general success of video sharing sites, there continues to be very little focus on compensating users for their original contributions, and business plans continue to focus on advertising sales for revenue.

12. For at least these reasons, as well as those given in the response that accompanies this declaration, I believe that my patent application should be allowed to issue as a patent.

13. I further declare that all statements made herein are true to the best of my knowledge, and all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:_____
Kivin Varghese

Date: _____10/15/07_____